

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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BUILDING SERVICE 32B-J BENEFIT FUNDS, :  
 :  
 Plaintiffs, :  
 :  
 : 07 Civ 8381 (HB)  
 :  
 -against- :  
 : AFFIDAVIT IN  
 : SUPPORT OF MOTION  
 :  
 :  
 GCA SERVICES GROUP, INC. :  
 :  
 :  
 Defendant. :  
 -----X

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF NEW YORK )

CARMEN MELENDEZ, being duly sworn, deposes and says:

1. I am employed in the Audit and Delinquency department of the Building Service 32BJ Benefit Funds ("Funds"). I am familiar with the facts and circumstances set forth herein.

2. I have been employed by the Funds for 18 years. I am responsible for the collection of delinquent employer contributions.

3. Defendant GCA Services Group, Inc. ("GCA") was party to a collective bargaining agreement with Local 32BJ, SEIU ("Union") covering the terms and conditions of employment of GCA's cleaning employees at St. John's University.(Exhibit A) It is my understanding that GCA was contracted to St. John's University to provide cleaning services for St. John's at its campus and other facilities.

4. Pursuant to the collective bargaining agreement, GCA was obligated to make contributions on behalf of its covered employees to the 32BJ Health Fund, the 32BJ Pension Fund, the 32BJ Legal

Services Fund, the Thomas Shortman Training and Scholarship Fund and the 32BJ Supplemental Retirement and Savings Fund.

5. The contributions are paid quarterly, in the month following the end of each quarter. Thus, in January the employer pays for those employees who worked in the preceding quarter of October, November, and December; in April for January, February and March, etc. Each quarterly payment is accompanied by a remittance report detailing the employees for whom the employer is paying.

6. Contributions for the Pension and Supplemental Retirement Funds are for employee work credit earned in the preceding three months. Contributions for Health, Legal Services, and Training are for advance coverage for the next three months. Thus, a payment made in January covers the employees' pensions for October, November and December, and their Health coverage for January, February and March; but all the payments are for those employees who worked for the employer in October, November and December.

7. Upon information and belief, GCA's service contract with St. John's was terminated as of August 1, 2007. At that time, GCA still had not submitted its July, 2007 contributions and reports for its employees working in the preceding three months (April, May, June, 2007). The last contributions and reports filed by GCA were in April, 2007, for January, February and March. I have attached a copy of that report filed in April, 2007. (Exhibit B).

8. Because of its failure to make its July 2007 contributions, and because it was also the employer in July, 2007, GCA owes contributions for Pension and Supplemental Retirement coverage for four months: April through July, 2007.

9. Because of its failure to make the same July, 2007 contributions, GCA owes one month's contributions for Health, Legal and Training Fund coverage, the month of July, 2007. This is because these Fund contributions are in advance, and since GCA ceased being the employer on

August 1, 2007, GCA only owes one month advance payments, rather than the full three.

10. GCA also underpaid its contributions for the October- December, 2006 quarter. For whatever reason, GCA sent payments for this quarter, but no remittance reports. The Funds had to calculate based on the previously filed reports, and GCA had underpaid this quarter, primarily a \$35,000 deficiency in the Health Fund payment.

11. The total amount in principal contributions owed by GCA is \$291,835.83.

12. The Funds' Trust Agreement all provide for interest on unpaid contributions at 6% per annum, and liquidated damages at 2% per month. I am attaching the Pension Fund Trust Agreement rider as Exhibit C.

  
CARMEN MELENDEZ

subscribed to before me, this  
6 day of March, 2008

  
NOTARY PUBLIC

**NANCY STRASFELD**  
Notary Public, State of New York  
No. 02ST6129584  
Qualified in New York County  
Commission Expires June 27, 2009